

I am concerned that the broadcast flag requirement is in direct opposition to the Sony Betamax finding of the Supreme Court which ruled that VCR's were entirely legal for substantial non-infringing purposes, such as time-shifting. While I understand that the ruling does not apply to VCR's, the Court certainly knew at the time that the video tapes were portable, and, as such, implicitly backed both time-shifting and room-shifting as non-infringing activities. However, if I have a PVR in my living room, and one in my bedroom, it is my understanding that the proposed rule would prohibit copying a 'protected' show from one PVR to another, an activity with substantial non-infringing purposes. Therefore, the proposed rule would allow content providers to effectively deny a right assigned to the citizen by the Supreme Court of the United States. While I vigorously oppose copyright infringement, there are law-enforcement avenues available to pursue violators - it is not the place of the FCC to deny rights to the consumer already found to be protected by the Supreme Court.

As a practical matter, should the proposed rule go into effect, be challenged, and Supreme Court finds itself in agreement with the Betamax ruling, the standard would be thrown into turmoil, existing equipment would be obsolete, and the industry would incur significant cost. To avoid such costly risks, the FCC should take the conservative path and stay far clear of reducing the rights of the consumer.